

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSEPH W. FOLEY,

Plaintiff,

25-CV-1526 (VSB) (RWL)

- against -

CAPITAL ONE, N.A.,

Defendant.

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

The Court is in receipt of the parties' correspondence concerning Plaintiff's request for leave to file motions for discovery sanctions and summary judgment. The Court will schedule a case management conference to discuss the matter. In the meantime:

1. By **May 12, 2025**, Capital One shall file with the Court all documents Capital One contends comprise the agreement(s) governing the credit card account at issue.

2. The Court has tried to locate the three cases cited by Plaintiff on the first page of his May 6, 2025 letter at Dkt. 45. The Court has not been successful. Each of the citations corresponds to a case name other than that identified by Plaintiff, and none address the issues in this case. See 13 Misc.3d 604 (*Delta Financial Corp. v. Morrison*); 2020 WL 4194840 (*Hall v Department of Corrections*); 2011 N.Y. Slip. Op. 32356(U) (*Orozco v. Smith DeGroat, Inc.*). Nor could the Court locate cases with the party names cited by Plaintiff, with one exception being *Wells Fargo Bank, N.A. v. Weinberg*, which is a Second Department case (see 229 A.D.2d 840) that addresses default on mortgage payments. Further, the Court could not locate any case with the language quoted by Plaintiff with respect to the first case cited among the three (i.e., “A corporate officer is not ...”). Accordingly, by **May 12, 2025**, Plaintiff shall file a letter explaining (i) how he

identified the three cases cited, and (ii) why the Court has been unable to locate the cases cited.

3. The Court refers the parties to the following two cases: *American Express Bank, FSB v. Dechon*, 41 Misc.3d 1226(A), 981 N.Y.S.2d 633 (Sup. Ct. Queens Cty. Nov. 6, 2013); *Creditone, LLC v. Fan Mei Feldman*, 34 Misc.3d 1218(A), 950 N.Y.S.2d 491 (Sup Ct. N.Y. Cty. Jan. 10, 2012).

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', written over a horizontal line.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: May 7, 2025
New York, New York

Copies transmitted this date to all parties.